



*United States Attorney
Southern District of New York*

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June 13, 2024

VIA ECF

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *United States v. Hwang and Halligan,*
SI 22 Cr. 240 (AKH)**

Dear Judge Hellerstein:

The Government respectfully writes to seek permission to supplement its prior notices regarding misstatement evidence of the commission of the charged offenses to include evidence of a March 16, 2021 phone call between defendant Patrick Halligan and co-conspirator Scott Becker and representatives from Bank of America. The Government has separately provided notice to the defendants of its intention to offer evidence of this misrepresentation at trial. A copy of the Government's letter to the defense is attached hereto as Exhibit A.

On March 16, 2021, Halligan and Becker participated in a phone call with representatives from Bank of America to discuss beginning a swap counterparty relationship with Bank of America. During the phone call, Becker and/or Halligan told Bank of America, among other things, that Archegos's largest position was 35% of net asset value (NAV) or \$8.1 billion. This information was inaccurate, as Archegos's largest position far exceeded 35% of NAV by March 16, 2021. (*See* GX 475). The Government seeks to present this evidence to the jury through the testimony of a Bank of America witness and the introduction of a few documents, including an email from Halligan that describes the phone call. (*See* GX 148, 157, 3793, attached hereto as Exhibit B).¹

This evidence is highly relevant to the issues at trial, and directly responsive to arguments Halligan has advanced that he was unaware of Becker's lies to the banks. The Government should be permitted to introduce this evidence before resting its case. The defendants have been in possession of documents reflecting the existence and substance of this March 16, 2021 phone call since at least 2022, when the Government first produced the relevant materials to the defendants

¹ GX 2350, attached hereto as Exhibit C, is an internal Bank of America document that memorializes the relevant misrepresentation. The Government does not seek to introduce GX 2350 at trial, but may use GX 2350 to refresh the recollection of a Bank of America witness if necessary.

in Rule 16 discovery. Moreover, that Archegos tried to begin a swap counterparty relationship with Bank of America has already been the subject of testimony at trial. (Tr. 646:7-8 (Jones); 959:18-22 (Becker); 1052-1053 (Becker)). However, it was only in re-reviewing the Government's discovery productions on the evening of June 12, 2024, that the Government first noticed that, during this March 16, 2021 phone call, Becker and/or Halligan misrepresented Archegos's largest position size to Bank of America. Upon realizing this fact, the Government promptly updated its witness list, marked a handful of additional documents as exhibits, and informed the defense of its intention to offer evidence of this misrepresentation at trial. The defendants therefore will suffer no prejudice from the addition of this evidence at trial, nor will the introduction of this evidence through brief witness testimony and a small number of related communications have any material impact on the length of trial.

For the reasons set forth above, the Government respectfully moves to supplement its prior notices regarding misstatement evidence to include Halligan and Becker's March 16, 2021 phone call with Bank of America.

Respectfully submitted,

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Cc: Counsel of Record (via ECF)